FOUO - PRE-DECISIONAL



THE UNDER SECRETARY OF THE NAVY

WASHINGTON, D.C. 20350-1000

APR 0 5 2011

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Continuation of Operations in the Absence of Appropriations

Reference: (a) USN Memo 16 March 2011

(b) OASN (FM&C) Memo 16 March 2011

On April 8, the current continuing resolution expires. If required action is not taken by Congress by that date, and approved by the President, we would experience an absence of appropriations and a government shutdown. If this did occur, the expectation is for the entire workforce to report to work on their regularly scheduled workday and be prepared to implement an orderly shutdown (in three to four hours). The Administration expects a government shutdown will be averted but we must plan prudently.

Attached is pre-decisional draft guidance for conducting a government shutdown in the Department of Defense (DoD). The guidance remains subject to change but at this point is essentially consistent with references (a) and (b). Addressees should coordinate the application of this guidance to their reporting commands (within one day of receipt of this official guidance), with protections against disclosure until directed. Your previously established shutdown teams should be prepared to answer or relay questions associated with the shutdown. Separate guidance on human resource issues and furlough notices will be distributed by OASN (M&RA). Your activities should be prepared to identify non-exempt individuals for notification, but defer verbal or written notification to employees until such action is directed.

We ask that you and appropriate staff review this guidance carefully. Based on this guidance and input from your field activities, please update the "exempt" classification for civilian personnel that you previously identified in response to reference (b). Additionally, non-exempt civilian personnel numbers need to be identified by category. Provide this information no later than April 6, 2011 to the contingency planning website addressed in reference (b). If you have questions about the shutdown, please contact Mary K. Tompa at (703) 695-1013, email maryk.tompa@navy.mil or other members of the contingency planning team. Attached is a summary of the initial plans by Budget Submitting Offices and the other Services.

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Again, we believe that a government shutdown will be averted. We appreciate your assistance in disseminating the guidance to your activities and updating your plans.

Robert O. Work

Attachment:

As stated

Distribution:

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FOUO - PRE-DECISIONAL

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CONTINGENCY PLAN GUIDANCE FOR CONTINUATION OF ESSENTIAL OPERATIONS IN THE ABSENCE OF AVAILABLE APPROPRIATIONS MARCH 2011

GENERAL INFORMATION

This document provides guidance for identifying those missions and functions of the Department of Defense that may continue to be carried out in the absence of available appropriations. The information provided in this document is not exhaustive, but rather illustrative, and is intended primarily to assist in the identification of those activities that may be continued notwithstanding the absence of available funding authority in the applicable appropriations (exempt activities). Activities that are determined not to be exempt, and which cannot be performed by utilizing military personnel in place of furloughed civilian personnel, will be suspended when appropriated funds expire. The Secretary of Defense may, at any time, determine that additional activities shall be treated as exempt.

Military personnel are not subject to furlough. Accordingly, military personnel on active duty, including reserve component personnel on Federal active duty, will continue to report for duty and carry out assigned duties. In addition to carrying out exempt activities, military personnel on active duty may be assigned to carry out non-exempt activities, in place of furloughed civilian personnel, to the extent that the non-exempt activity is capable of performance without incurring new obligations.

Reserve component personnel performing Active Guard Reserve (AGR) duty will continue to report for duty to carry out AGR authorized duties. Reserve component personnel will not perform inactive duty training resulting in the obligation of funds, except where such training directly supports an exempt activity, and may not be ordered to active duty, except in support of those military operations and activities necessary for national security listed in Attachment 2, including fulfilling associated pre-deployment requirements. Orders for members of the National Guard currently performing duties under 32 U.S.C. 502(f) will be terminated unless such duties are in support of exempt activities approved by the Secretary of Defense.

Movement of military personnel will be limited as follows:

- 1) Moves TO an exempt activity will continue.
- 2) Moves FROM an exempt activity will continue only to the extent the commander of the exempt activity determines it essential to mission (e.g., overburden of local infrastructure), or required to enhance support of exempt activities.
- 3) Accession and training moves associated with recruitment and initial entry training will continue, along with subsequent movement to first station when required by "1" above.
- 4) Movement to comply with separation instructions will continue.

Civilian personnel, including military technicians, who are not necessary to carry out or support exempt activities are to be furloughed. Only the minimum number of civilian employees necessary to carry out exempt activities will be exempt from furlough. Positions that provide direct support to exempt positions may also be deemed exempt if they are critical to performing

the exempt activity. Determinations regarding the status of civilian positions will be made on a position by position basis, using the guidance in this document. Determinations shall be made for all positions, including those in the Senior Executive Service or equivalent, as well as those located overseas.

Following the expiration of appropriations, a minimum number of civilian employees may be retained as needed to execute an orderly suspension of nonexempt activities within a reasonable timeframe.

Senate-confirmed officials appointed by the President and their immediate office personnel are deemed to be in direct support of exempt activities and are exempt from furlough.

Foreign national employees paid with host country funds are exempt from furlough. Additionally, foreign national employees governed by country-to-country agreements that prohibit furloughs are exempt.

Civilian personnel whose salaries are paid with expired appropriations and later reimbursed from a non-DoD source (e.g., the Foreign Military Sales Trust Fund) are not exempt from furlough solely on that basis. Personnel whose salaries are paid from a DoD appropriation or fund that has sufficient funding authority (e.g., multiyear appropriations with available balances from prior years) will not be subject to furlough. Heads of activities may, on their authority, require the return to work of civilian personnel in the event of developments (natural disasters, accidents, etc.) that pose an imminent danger to life or property.

Contractors performing under a contract that was fully obligated upon contract execution (or renewal) prior to the expiration of appropriations may continue to provide contract services, whether in support of exempt activities or not. However, new contracts (including contract renewals or extensions, issuance of task orders, exercise of options) may not be executed unless the contractor is supporting an exempt activity. No funds will be available to pay such new contractors until Congress appropriates additional funds.

The expiration of an appropriation does not require the termination of contracts (or issuance of stop work orders) funded by that appropriation unless a new obligation of funds is required under the contract and the contract is not required to support an exempt activity. In cases where new obligation is required and the contract is not required to support an exempt activity, the issuance of a stop work order or the termination of the contract will be required.

The Department may continue to enter into new contracts, or place task orders under existing contracts, to obtain supplies and services necessary to carry out or support exempt activities even though there are no available appropriations. It is emphasized that this authority is to be exercised only when determined to be necessary - where delay in contracting would endanger national security or create a risk to human life or property.

Additionally, when authorized by the Secretary of Defense, contracts for covered items may be entered into under the authority of the Feed and Forage Act.

PROTECTION OF LIFE AND PROPERTY NATIONAL SECURITY

 Military operations and activities authorized by deployment or execute orders, or otherwise approved by the Secretary of Defense, and determined to be necessary for national security, including administrative, logistical, medical, and other activities in direct support of such operations and activities; training and exercises required to prepare for and carry out such operations. Activities of forces assigned or apportioned to combatant commands to execute planned or contingent operations necessary for national security, including necessary administrative, logistical, medical, and other activities in direct support of such operations; training and exercises required to prepare for and carry out such operations. Activities necessary to continue recruiting for entry into the Armed Forces during contingency operations (as such term is defined in 10 U.S.C 101(13)), including activities necessary to operate Military Entrance Processing
 Stations (MEPS) and to conduct basic and other training necessary to qualify such recruited personnel to perform their assigned duties. Command, control, communications, computer, intelligence, surveillance, and reconnaissance activities required to support national or military requirements necessary for national security or to support other exempt activities, including telecommunications centers and phone switches on installations, and secure conference capability at military command centers. Activities required to operate, maintain, assess, and disseminate the collection of intelligence data necessary to support tactical and strategic indications and warning systems, and military operational requirements. Activities necessary to carry out or enforce treaties and other international obligations.
Activities involving technical intelligence information collection, analysis and dissemination functions not in direct support of exempted activities (e.g., general political and economic intelligence unrelated to ongoing or contingency military operations, support of acquisition programs, support to operational test and evaluation, intelligence policy security promulgation and development, systems development and standards, policy and architecture) are not exempt.

Exempt	Response to emergencies, including fire protection, physical and personnel
•	security, law enforcement/counter terrorism, intelligence support to terrorist
	threat warnings, Explosive Ordnance Disposal operations, emergency salvage
	subsafe program, nuclear reactor safety and security, nuclear weapons, air
	traffic control and harbor control, search and rescue, utilities, housing and
	food services for military personnel, and trash removal.
	Emergency repair & non-deferrable maintenance to utilities, power
	distribution system buildings or other real property, including bachelor
	enlisted quarters (BEQ), bachelor officers' quarters (BOQ), and housing for
	military personnel.
	Repair of equipment needed to support exempted services, including fire
	trucks, medical emergency vehicles, police vehicles, or material handling
	vehicles.
	Monitoring and maintaining alarms and control systems, utilities, and
	emergency services
	Receipt/safekeeping of material delivered during shutdown.
	Control of hazardous material and monitoring of existing environmental
	remediation.
	Oil spill/hazardous waste cleanup, environmental remediation, and pest
	control, only to the extent necessary to prevent imminent danger to life or
	property.
	 Safe storage or transportation of hazardous materials, including ammunition
	chemical munitions, photo processing operations.
	Emergency reporting response and input to the National Response Team and
	coordinating with Environmental Protection Agency (EPA) and other
	agencies on fire, safety, occupational health, environmental, explosive safety
	for vector borne disease management.
	Activities, both in the Continental United States (CONUS) and overseas,
	required for the safety of DoD or other U.S. Government employees or for the
	protection of DoD or other U.S. Government property.
1	• Defense support to civil authorities in response to disasters or other imminent
44	threats to life and property, including activities of the U.S. Army Corps of
	Engineers with respect to responsibilities to state and local governments that involve imminent threats to life or property.
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	 Foreign humanitarian assistance in response to disaster or other crises posing an imminent threat to life.
	• Emergency counseling and crisis intervention intake screening and referral
	services.
	Suicide and substance abuse counseling.
	 Counterdrug activities determined to be necessary for the protection of life or
	property.
	Operation of mortuary affairs activities and attendant other services
	necessary to properly care for the fallen and their families.
	Other activities authorized by the Secretary of Defense to provide for the
	safety of life or protection of property.
Tootnote	 Activities in support of environmental requirements which are not necessary
	to prevent imminent threat to life on preperty are not exempt

to prevent imminent threat to life or property are not exempt.

MEDICAL/DENTAL CARE

Exempt	 Inpatient care in DoD Medical Treatment Facilities and attendant maintenance of patient medical records. Acute and emergency outpatient care in DoD medical and dental facilities. Private Sector Care under TRICARE. Certification of eligibility for health care benefits. Veterinary Services that support exempted activities (i.e., food supply and service inspections).
Footnotes	 Contingency planning in medical command headquarters not immediately necessary to support exempt activities is not an exempt activity. Elective surgery and other elective procedures in DoD medical and dental facilities are not exempt activities. Surgery to continue recovery of function/appearance of Wounded Warriors is exempt.

ACQUISITION AND LOGISTIC SUPPORT

Exempt	Contracting, contract administration, and logistics operations in support of exempt activities.
	Activities required to contract for and distribute items as authorized by the Feed and Forage Act (e.g., clothing, subsistence, forage, fuel, quarters,
	transportation, and medical and hospital supplies).
	Central receiving points for storage of supplies and materials purchased prior to the shutdown.

EDUCATION AND TRAINING

Exempt	 Education and training necessary to participate in or support exempt activities. DoD Education Activity (DoDEA) educational activities.
Footnotes	 DoDEA summer school activities are non-exempt. Installation education centers may continue to operate utilizing military personnel, so that private agencies such as colleges and universities may provide courses for which payment has already been made. Civilian employees on TDY for non-exempt training or education should be returned to their home stations as part of the orderly closedown of operations. Civilian personnel on PCS orders attending training or educational activities should remain in place.

LEGAL ACTIVITIES

Exempt	 Litigation activities associated with imminent or ongoing legal action, in forums inside or outside of DoD, to the extent required by law or necessary to support exempt activities. Legal support for exempt activities, including legal assistance for military and civilian employees deployed, or preparing to deploy, in support of military or
	stability operations. • Legal activities needed to address external (non-judicial) deadlines imposed by non-DoD enforcement agencies, to the extent necessary to continue exempt activities.

AUDIT AND INVESTIGATION COMMUNITY

Exempt	 Criminal investigations related to the protection of life or property, including national security, as determined by the head of the investigating unit, and investigations involving undercover activities. Counterterrorism and counterintelligence investigations.

MORALE WELFARE & RECREATION/NONAPPROPRIATED FUNDS

Exempt	Morale, Welfare, and Recreation (MWR) and Non-Appropriated Fund (NAF) activities necessary to support exempt activities, e.g., operation of mess halls; physical training; child care activities required for readiness.
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Footnotes	 Activities funded entirely through NAF sources will not be affected. Military personnel may be assigned to carry out or support non-exempt MWR activities, where deemed necessary or appropriate, to replace furloughed employees.

FINANCIAL MANAGEMENT

Exempt	 Activities necessary to control funds, record new obligations incurred in the performance of exempt activities, and manage working capital funds. Activities necessary to effect upward adjustment of obligations and the reallocation of prior-year unobligated funds in support of exempt activities.
Footnote	Preparation of financial reports, research and correction of problem disbursements, adjustments to prior-year funds (except as noted above) including those related to programs and contracts that do not support exempt activities, and approval of the use of currently available funds to pay obligations against closed accounts are not exempt.

WORKING CAPITAL FUND/REVOLVING FUNDS

Exempt	 Defense Working Capital Fund (DWCF)/Revolving Fund (RF) activities with positive cash balances may continue to operate until cash reserves are exhausted. When cash reserves are exhausted, DWCF/RF activities must continue operations in direct support of exempted activities. DWCF/RF activities may continue to accept orders financed with appropriations enacted prior to FY 2011 or unfunded orders from exempt organizations. Unfunded orders will be posted to accounts receivable and not actually billed until appropriations are enacted.
Footnotes	 DWCF/RF are not directly impacted by a lapse in annual appropriations. Management actions should be taken to sustain operations and minimize operational impact resulting from late approval of annual appropriations. Management actions which could be taken to conserve cash reserves include: delay of training, minimal travel, reduction in supplies, and other actions consistent with management objectives. Inter-DWCF/RF billings will continue unless a suspension request is approved by the Office of the Under Secretary of Defense (Comptroller), Approval may be requested for advance billing of funded customer orders. Plan guidance for exempt activities is applicable to DWCF/RF internal operations.

Military Operations and Activities Necessary for National Security

USAFRICOM:

- CJTF-HOA
- Operation OBJECTIVE VOICE
- Operation LION ARCHER
- Operation ONWARD LIBERTY
- Operation TUSKER SAND
- Operation JAVELIN STRIKE
- Operation TRIDENT REACH / OCEAN LOOK
- Operation TRIDENT REACH II
- Operation UNIFIED PROTECTOR

USCENTCOM:

- Operation COPPER DUNE
- Operation SPARTAN SHIELD
- Operation NOMAD SHADOW
- Operation ECHO PROP
- Operation EFFICIENT ILLUSION
- Operation LION HUNTER
- Operation YUKON HUNTER
- CPD
- Mission Rehearsal

USEUCOM:

- Current Theater Named-Operations
- Contingency Support to CENTCOM/AFRICOM beyond NEO
- Theater Computer Net Defense
- Maritime Interdiction Operations
- European Phased Adaptive Approach
- Nuclear Weapons Security

USJFCOM:

- Global Force Management of Joint Forces
- Readiness and Training to provide Joint Capable Forces and Headquarters
- Support to Contingency Operations to include training and Joint Enabling Capability support

USNORTHCOM/NORAD:

- Homeland Defense (ONE, Ballistic Missile Defense, Command Center Operations, Counterterrorism/Force Protection (CT / FP))
- Continuity of Operations, Mobile C3
- Chemical, Biological, Radiological, Nuclear, Explosive Consequence Management Response Force
- Very Important Persons Protection Support Activity Explosive Ordnance Division

- President of the United States (POTUS) Support
- National Capital Region Integrated Air Defense System
- National Special Security Events (e.g., national political conventions)
- Aerospace Warning, Control and Maritime Warning
- Integrated Tactical Warning Attack Assessment (ITW / AA)
- Counter Transnational Criminal Organization (TCO) support to Mexico
 - Operations/Intelligence Support to Mexico (to include RIOCC Operations, Operational Planning Training and Advisory Program (OPTAP)
 - Intelligence Surveillance Reconnaissance (ISR)
- DSCA for Natural Disasters and Shuttle Support
- DOD Support to U.S. Authorities for Southwest Border Security

USPACOM:

- OPERATION NOBLE EAGLE (ONE)-Hawaii/Alaska/Guam
- Joint Operations Center for Crisis Response

USSOUTHCOM:

 JIATF-S counterdrug detection and monitoring mission (Caber Focus, Central Skies, Caribbean Shield)

USSOCOM:

- 1208 Projects in support of the GCCs
- Activities in Mexico in support of NORTHCOM
- Secretary of Defense-Directed operations
- Operations in support of AFRICOM and EUCOM

USSTRATCOM:

- Operation BUCCANEER CUTLASS
- Operation GHOST RIDER
- Nuclear Operations
- Space Operations
- Cyber Operations
- Integrated missile defense in support of homeland defense

USTRANSCOM:

- Strategic Lift for deployment, sustainment, and redeployment operations
- Operations supporting Homeland Defense
- Maintain JTF-Port Operations (JTF-PO) posture

All COCOMs

- Counter-piracy Operations
- Military operations, to include NEO, as directed by POTUS and required as a result of failed governments
- OPERATION ENDURING FREEDOM (OEF) and OPERATION NEW DAWN (OND)
- Ballistic Missile Defense Limited Defensive Operations
- Theater and National Intelligence Support

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50% 61% 18% 87% 20% 7% 99% 70% 13% 0% 69% 34% 0% 11% 98% 46% 30% 32% 45% 48% 53%	Exempt %	67%	50%	39%	82%	13%	80%	93%	1%	30%	87%	100%	31%	66%	100%	89%	2%	54%	70%	68%	55%	52%	47%	49%
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	*Does not include 29,827 employees funded entirely w	rith NAF								14,042								386.51						i

Note: If Exempt includes 589 PACOM and 426 JFCOM; non-exempt includes 9 PACOM and 320 JFCOM (which may also be provided separately to OSD by the COCOMS)

14,042

15,785

Majority of Exempt Personnel Perform:

National Security, COCOMS, network security/communications, National & Military Intelligence programs, strategic nuclear deterrent operations, civilian mariners (WCF), airfield ops, port ops, command & control, shipyards (workforce supporting SSBNS/SSGNs (not FFGS))

Safety of Persons & Protection of Property: guards, firefighters, emergency services

Medical/Denual Carg: Reimbursable from the Defense Health Program

Acquisition and Logistics Support: MILCON SIOH funded, shipbuilding/nuclear ship repair contracts

Working Capital Fund/Revolving Functions: WCF activities w/positive cash balance